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Rules, Regulations, Orders

TITLE 14—CIVIL AVIATION CIVIL AERONAUTICS AUTHORITY [Amendment 1 of Regulation 412-A-1] FILING OF POOLING AND OTHER AGREEMENTS

At a session of the Civil Aeronautics Authority held at its office in the City of Washington, D. C., on the 26th day of September 1939.

The Civil Aeronautics Authority, acting pursuant to the Civil Aeronautics Act of 1938, particularly section 205 (a) thereof, and deeming its action necessary to carry out the provisions of section 412 thereof and to exercise and perform its powers and duties under said Act, hereby makes and promulgates the following amendment of Regulation 412-A-1:

Effective immediately Regulation 412-A-1 is hereby amended to read as follows:

SEC. 1. Number of copies. (a) Unless express permission to file less copies is granted, there shall be filed with the Authority three (3) true and complete copies of all contracts and agreements which are required to be filed under the provisions of section 412 (a) of the Civil Aeronautics Act of 1938. Oral contracts and agreements required to be filed under the provisions of said section shall be evidenced by true and complete written memoranda and three (3) true and complete copies of such memoranda shall be filed with the Authority. The filing of contracts or agreements evidenced by correspondence or by resolutions of associations of air carriers shall be made by filing with the Authority three (3) true and complete copies of such correspondence or resolutions, as the case may be.

(b) Additional copies of contracts or agreements shall be furnished to the Authority upon request.

SEC. 2. Formal requirements. All documents filed hereunder shall be on strong, durable white paper and, if possible, not larger than 8½" by 13" in size, except that tables, charts, maps, and other documents larger than that size may be folded to approximately the required measurements. The left margin should be at least 1½" wide and if the document is bound, it should be bound on the left side. One copy of each typewritten document should be carbon-backed.

SEC. 3. Place and time of filing. The required number of copies of formal written contracts or agreements shall be filed at the office of the Authority in Washington, D. C., addressed to the Economic Compliance Division, Civil Aeronautics Authority, within fifteen (15) days after the date of execution thereof. The required number of copies of memoranda of oral contracts or agreements and of correspondence or resolutions evidencing contracts or agreements shall be filed in the same manner, within thirty (30) days after such contracts or agreements have been entered into between the parties. The time of filing prescribed herein may be extended by the Authority in exceptional circumstances upon proper application therefor.

SEC. 4. Who shall file. (a) The filing of copies of contracts and agreements which are required to be filed under the provisions of section 412 (a) of the Civil Aeronautics Act of 1938 shall be made by every air carrier who is a party thereto. However, if the required number of copies are filed by any air carrier who is a party to such contract or agreement, any other air carrier who is a party shall be deemed to have complied with this requirement if it transmits to the Authority, within the time prescribed by section 3 of this regulation, a signed statement to the effect that it concurs in such filing.

(b) The filing of copies of contracts or agreements evidenced by resolutions or other action of associations of air carriers may be effected in the following manner. The secretary or other authorized officer of the association may be designated as agent for the purpose of

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making such filing. Each air carrier who is a member of such association shall separately transmit to the Authority a written statement, signed by such air carrier, reciting that a designated person or persons holding the office of secretary or other office of the association, or that any person or persons holding a designated office or offices of the association is constituted the attorney in fact for the filing of copies of any contracts or agreements evidenced by resolution or other action of the association to which such air carrier may become a party. Such authorizations may be revoked at any time by any air carrier by giving formal notice of revocation to the Authority.

SEC. 5. Certification and verification. (a) One copy of each formal written contract or agreement filed shall bear the certification of the secretary or other duly authorized officer of the filing party or parties to the effect that such copy is a true and complete copy of the original written instrument executed by the parties.

(b) One copy of each memorandum of oral contracts or agreements filed shall be verified by the secretary or other duly authorized officer of the filing party or parties to such oral contract or agreement. The person or persons verifying such memorandum shall set forth that they are fully familiar with all the terms and conditions of such oral contract or agreement and that the memorandum filed is a true and complete memorandum thereof.

(c) Copies of correspondence evidencing contracts or agreements shall be accompanied by the certifications of the secretary or other duly authorized officer of the filing party or parties to the effect that such copies are true and complete copies of the originals of such correspondence.

(d) One copy of each contract or agreement evidenced by resolution or other action of associations of air carriers shall bear the certification of the secretary of the association to the effect that such copy is a true and complete copy of the resolution duly adopted by the association on a certain date. The secretary shall also specify in such certification the names of each air carrier who concurred in such resolution or other action and the name of each air carrier member who did not so concur.

SEC. 6. Modifications or cancellations. This regulation shall be applicable to all modifications or cancellations of contracts or agreements required to be filed under the provisions of section 412 (a) of the Civil Aeronautics Act of 1938.

SEC. 7. Contracts or agreements previously filed. Contracts or agreements which have been filed prior to the effective date hereof shall not be subject to the provisions of this regulation, except to the extent that the Authority may by appropriate request in particular cases require compliance with any specific provision or provisions hereof.

SEC. 8. Effective date. This regulation shall be effective from and after the 1st day of August, 1939.

By the Authority.

[SEAL]

PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 39-3562; Filed, September 27, 1939; 11:11 a. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3284]

IN THE MATTER OF THE FLORACUBE COMPANY, INC.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Representing, in connection with offer, etc., in commerce, of respondents' "Floracubes", or other similar medicinal preparation, that said preparation has any therapeutic value other than as a palliative in the

treatment of constipation, or that said preparation is a cure or remedy for any disease, disorder or malady, or that said preparation will prevent, eliminate or rid the human body of any disease, disorder or malady or the causes of such ailments and conditions, or that it is a cure or remedy for colitis, headaches, rheumatism, high blood pressure, heart trouble, and various other ailments and conditions, as specified, and for all common and annoying diseases, or constitutes a competent or effective treatment thereof, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, The Floracube Company, Inc., Docket 3284, September 8, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 8th day of September, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF EUGENE H. HUNTER AND RAE LAMARR HUNTER, INDIVIDUALS TRADING AS THE FLORACUBE COMPANY, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard¹ by the Federal Trade Commission upon the complaint of the Commission and the answer of respondents, in which answer respondents admit all of the material allegations of fact set forth in said complaint, and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Eugene H. Hunter and Rae LaMarr Hunter, individuals, trading as The Floracube Company, Inc., their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of a medicinal preparation now designated as "Floracubes", or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same name or under any other name or names, in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing that respondents' preparation has any therapeutic value other than as a palliative in the treatment of constipation, or that said preparation is a cure or remedy for any disease, disorder or malady, or that said preparation will prevent, eliminate or rid the human body of any disease, disorder or malady or the causes of such ailments and conditions;

¹ 3 F.R. 2257 DI.

(2) Representing that respondents' preparation is a cure or remedy for colitis, digestive disorders, headaches, over-acidity, food decay within the body, nervousness, rheumatism, ailments common to old age, high blood pressure, arthritis, heart trouble, weak eyes, lack of pep, dizzy spells, liver trouble, kidney trouble, bladder trouble, loss of gland stamina, loss of vitality, stiff joints, and all common and annoying diseases, or constitutes a competent or effective treatment therefor.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-3556; Filed, September 27, 1939; 9:37 a. m.]

[Docket No. 3851]

IN THE MATTER OF AMERICA'S MEDICINE,
ETC.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product*: § 3.6 (x) *Advertising falsely or misleadingly—Results*: § 3.6 (y) *Advertising falsely or misleadingly—Safety*. Disseminating, etc., advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase of respondent's America's Medicine XX Compound, Nu-Mode XX Compound, and Kotess Periodic Relief Compound, and America's Medicine XXX Compound, Nu-Mode XXX Compound, and Kotess Periodic Relief Compound, or other similar medicinal preparations, which advertisements represent, directly or through implication, that the use of said medicinal preparations constitutes a safe, competent and scientific treatment for delayed menstruation and that their use will have no ill effects upon the human body, or which advertisements fail to reveal that the use of these preparations may result in serious or irreparable injury to the health of the user, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, America's Medicine, etc., Docket 3851, September 9, 1939]

United States of America—Before
Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of September, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF HARRY S. BENHAM, AN
INDIVIDUAL, TRADING AS AMERICA'S MEDICINE AND NU-MODE COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Harry S. Benham, an individual, trading as America's Medicine and Nu-Mode Company, or trading under any other name or names, his agents, servants, representatives and employees, directly or through any corporate or other device, do forthwith cease and desist from:

Disseminating or causing to be disseminated any advertisement by means of the United States mails or in commerce, as commerce is defined in the Federal Trade Commission Act by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of medicinal preparations known or designated as America's Medicine XX Compound, Nu-Mode XX Compound, and Kotess Periodic Relief Compound, and America's Medicine XXX Compound, Nu-Mode XXX Compound, and Kotess Periodic Relief Compound, or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same name or under any other name or names, or disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as commerce is defined in the Federal Trade Commission Act, of said medicinal preparations which advertisements represent, directly or through implication that the use of said medicinal preparations constitutes a safe, competent and scientific treatment for delayed menstruation and that their use will have no ill effects upon the human body, or which advertisements fail to reveal that the use of these preparations may result in serious or irreparable injury to the health of the user.

It is further ordered, That the respondent shall, within ten (10) days after service upon him of this order, file with the Commission an interim report in writing, stating whether he intends to comply with this order and if so, the manner and form in which he intends to comply; and that, within sixty (60) days after the service upon him of this order said respondent shall file with the Commission

a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-3557; Filed, September 27, 1939; 9:37 a. m.]

TITLE 17—COMMODITY AND
SECURITIES EXCHANGES

SECURITIES AND EXCHANGE
COMMISSION

SECURITIES EXCHANGE ACT OF 1934

ADOPTION OF RULE X-12A-9

The Securities and Exchange Commission, deeming it necessary and appropriate in the public interest and for the protection of investors and necessary for the execution of the functions vested in it so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 3 (a) (12), 10 (b) and 23 (a) thereof, hereby adopts the following Rule X-12A-9:

§ 240.X-12A-9 (Rule X-12A-9). *Exemption from Section 12 (a)¹ of certain certificates of deposit issued under deposit agreements having governmental managers—Prohibition of use of manipulative or deceptive devices or contrivances with respect thereto.* (a) Certificates of deposit shall be exempt from the operation of Section 12 (a)¹ if:

(1) A State or any political subdivision thereof or any agency or instrumentality of a State or any municipal corporate instrumentality of one or more States, acting through one or more of its duly authorized officers or otherwise, is the person primarily performing the acts and assuming the duties of manager pursuant to the provisions of the deposit agreement under which such certificates of deposit are issued; and

(2) Deposit under such agreement constitutes assent to a plan which provides for the issuance of securities of, or the payment of cash by, such State, political subdivision, agency, or instrumentality in return for the securities deposited under such agreement; and

(3) Each depositary designated to act under such agreement has been so designated by such State, political subdivision, agency or instrumentality; and

(4) Each depositary designated to act under such deposit agreement is a corporation or association which is organized and doing business under the laws of the United States or of a State, is authorized under such laws to exercise fiduciary powers, and is subject to supervision or examination by Federal or State authority.

¹ C. 404, sec. 12, 48 Stat. 892; C. 462, sec. 1, 49 Stat. 1375; 15 U.S.C., 781 and Sup. III.

(b) Rules X-7C2-1 [Sec. 240.X-7C2-1] and X-10B-1 [Sec. 240.X-10B-1] shall be applicable to all securities exempted from the operation of Section 12 (a) by paragraph (a) of this rule.

Effective September 27, 1939.

(C. 404, sec. 3, 48 Stat. 882; 15 U.S.C. 78c; C. 404, sec. 10, 48 Stat. 891; 15 U.S.C. 78j; C. 404, sec. 23, 48 Stat. 901; C. 462, sec. 8, 49 Stat. 1379; 15 U.S.C. 78w and Sup. III) [Gen. Rules and Regs., rule X-12A-9, effective September 27, 1939].

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3564; Filed, September 27, 1939; 11:21 a. m.]

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

ADOPTION OF RULE U-6

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Public Utility Holding Company Act of 1935, particularly Section 20 (a) and (c) thereof, and finding it necessary and appropriate in the public interest and for the protection of investors and consumers, hereby adopts Rule U-6 to read as follows:

SEC. 250. U-6 (Rule U-6). *Applicability of provisions of Federal Register Act to rules and regulations and amendments thereto.*—Rules and regulations of the Commission and amendments thereto adopted under the Public Utility Holding Company Act of 1935 [C. 687, 49 Stat. 803-38; 15 U.S.C., Sup. III, 79a-z-5] shall be deemed to be subject to the provisions of the Federal Register Act.

Effective September 27, 1939.

(C. 687, sec. 20, 49 Stat. 833; 15 U.S.C., Sup. III, 79t) [Gen. Rules and Regs., rule U-6, effective September 27, 1939]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3566; Filed, September 27, 1939; 12:17 p. m.]

SECURITIES ACT OF 1933

RESCISSION OF RULE S-160

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly Section 19 (a) thereof [C. 38, sec. 19, 48 Stat. 85; C. 404, sec. 209, 48 Stat. 908; 15 U.S.C. 77s], and deeming such action necessary and appropriate in the public interest and for the protection of investors so to do, hereby rescinds Rule S-160 [Sec. 230. S-160].

Effective September 27, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3565; Filed, September 27, 1939; 12:17 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[Narcotic Regulations No. 6]

PART 153—REGULATIONS REGARDING SEIZURES INVOLVING CONTRABAND ARTICLES COVERED BY SECTION 1 (B) (1) OF THE ACT OF AUGUST 9, 1939, PUBLIC, NO. 357, 76TH CONG. 1ST SESS.

REGULATIONS OF THE SECRETARY OF THE TREASURY RELATING TO THE BUREAU OF NARCOTICS

§ 153.1 (Article 1) *Definitions.* As used in these regulations, except as otherwise indicated by the content:

(a) The term "Act" means the Act of August 9, 1939, Public, No. 357, 76th Congress, 1st session.

(b) The term "property" means a vessel, vehicle, or aircraft within the scope of the Act.

(c) The terms "seizing officer," "officer seizing," etc., mean any officer, authorized and designated by the order of the Secretary dated August 31, 1939, (T. D. 31¹) to carry out the provisions of the Act, who initially seizes property or adopts a seizure initially made by any other officer or by a private person.

(d) The term "custodian" means the officer required under the order of the Secretary dated August 31, 1939, (T. D. 31) to take custody of particular property which has been seized pursuant to the Act.

(Sec. 8, Act of Aug. 9, 1939, Public, No. 357, 76th Cong., 1st sess.) [T. D. 31, Aug. 31, 1939]

§ 153.2 (Article 2) *Custody and storage.* All property seized under the provisions of this Act shall be placed and remain in the custody of the custodian for the district in which the seizure was made. The seizing officer shall store the property in a place designated, either generally or in a particular case, by the custodian. The place of storage shall be in the judicial district in which the seizure occurred.

(Sec. 605, 46 Stat. 754; 19 U.S.C. 1605) [Sec. 8, Act of Aug. 9, 1939, Public, No. 357, 76th Cong., 1st sess.]

§ 153.3 (Article 3) *Appraisalment.* The custodian shall appraise the property to determine the domestic value at the time and place of appraisalment. The domestic value shall be considered the price at which such or similar property is freely offered for sale at the time and place of appraisalment. If there is no market for the property at the place of appraisalment, the domestic value shall be considered the value in the principal market nearest the place of appraisalment.

(Sec. 606, 46 Stat. 754; 19 U.S.C. 1606) [Sec. 8, Act of Aug. 9, 1939, Public, No. 357, 76th Cong., 1st sess.]

§ 153.4 (Article 4) *Advertisement.* If the appraised value does not exceed \$1,000, the custodian shall cause a notice

of the seizure and of the intention to forfeit and sell or otherwise dispose of the property to be published once a week for at least three successive weeks in a newspaper of general circulation in the judicial district in which the seizure occurred.

The notice shall (1) describe the property seized and show the motor and serial numbers, if any; (2) state the time, cause and place of seizure; and (3) state that any person desiring to claim the property may, within twenty days from the date of first publication of the notice, file with the custodian a claim to the property and a bond with satisfactory sureties in the sum of \$250.

(Sec. 28 (a), 52 Stat. 4089; 19 U.S.C., Supp. IV, 1607) [Sec. 8, Act of Aug. 9, 1939, Public, No. 357, 76th Cong., 1st sess.]

§ 153.5 (Article 5) *Requirements as to claim and bond.* The bond shall run to the United States, have sureties approved by the custodian, and be conditioned that in case of condemnation of the property the obligor shall pay all the costs and expenses of the proceedings to obtain the condemnation. When a claim and bond are received by the custodian, he shall, if he finds the documents in proper form and the sureties satisfactory, transmit the documents, together with a description of the property and a complete statement of the facts and circumstances surrounding the seizure, to the United States Attorney for the district in which the seizure was made for the purpose of proceeding to a condemnation of the property in the manner prescribed by law. If the documents are not in satisfactory condition when first received, a reasonable time for correction may be allowed. If correction is not made within a reasonable time the documents may be treated as nugatory, and the case shall proceed as though they had not been tendered.

The filing of the claim and the giving of the bond does not entitle the claimant to possession of the property, but stops the summary proceedings. The bond shall be on Bureau of Narcotics Form 171, and there shall be endorsed thereon a description of the seized property, which must, in every case, be signed by the claimant in the presence of the witnesses to the bond, and attested by them. The costs and expenses secured by the bond are such as are incurred after the filing of the bond, including storage costs, safeguarding, court fees, marshal's costs, etc.

(Sec. 608, 46 Stat. 755; 19 U.S.C. 1608) [Sec. 8, Act of Aug. 9, 1939, Public, No. 357, 76th Cong., 1st sess.]

§ 153.6 (Article 6) *Summary forfeiture.* If the appraised value does not exceed \$1,000, and a claim and bond are not filed within the twenty days hereinbefore mentioned, the custodian shall declare the property forfeited and shall note the declaration of forfeiture on his records of the case. The custodian shall immediately advise the head of the bureau or agency to which he belongs of

¹ 4 F.R. 3840 DI.

the action which he has taken. Thereafter the property shall be retained in the custodian's district or delivered elsewhere for official use, or otherwise disposed of, in accordance with official instructions duly received by the custodian.

(Sec. 28 (b), 52 Stat. 1089; 19 U.S.C., Supp. IV, 1609) [Sec. 8, Act of Aug. 9, 1939, Public, No. 357, 76th Cong., 1st sess.]

§ 153.7 (Article 7) *Judicial forfeiture.* If the appraised value is greater than \$1,000, (or if the appraised value is not more than \$1,000, but a claim and satisfactory bond have been received, [Sec. 153.5]), the custodian shall transmit a description of the property and a complete statement of the facts and circumstances surrounding the seizure to the United States Attorney for the judicial district in which the seizure was made for the purpose of instituting condemnation proceedings. If the property has been advertised, the United States Attorney shall be furnished with copies of the newspapers containing the advertisements.

(Sec. 610, 46 Stat. 755; 19 U.S.C. 1610) [Sec. 8, Act of Aug. 9, 1939, Public, No. 357, 76th Cong., 1st sess.]

§ 153.8 (Article 8) *Petition for remission or mitigation of forfeiture.* Any person interested in any property within the scope of these regulations which has been seized, or which has been forfeited either summarily or by court proceedings, may file a petition for remission or mitigation of the forfeiture. Such petition shall be filed in duplicate with the custodian for the district in which the seizure occurred; shall be addressed to the Secretary of the Treasury; and shall be executed and sworn to by the person alleging the interest in the property.

The petition shall state in clear and concise terms the following:

(1) A complete description of the property, including motor and serial numbers, if any, and the date and place of seizure.

(2) The interest of the petitioner in the property, which shall be supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence.

(3) The facts and circumstances, to be established by satisfactory proof, relied upon by the petitioner to justify remission or mitigation.

Where the petition is for restoration of the proceeds of sale or for value of the property, if retained or delivered for official use, it must be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration or condemnation of forfeiture and was in such circumstances as prevented him from knowing of the same.

(Secs. 613 and 618, 46 Stat. 756, 757; 19 U.S.C. 1613 and 1618) [Sec. 8, Act of Aug. 9, 1939, Public, No. 357, 76th Cong., 1st sess.]

§ 153.9 (Article 9) *Time for filing petition.* A petition for remission or miti-

gation of a forfeiture must be seasonably filed. Where the petition is for restoration of the proceeds of sale, it must be filed within 90 days after the date of sale. If the property has been authorized for official use, the date of retention or delivery shall be regarded as the date of sale thereof for the purpose of computing the time in which a petition for remission or mitigation may be filed.

(Secs. 613 and 618, 46 Stat. 756, 757; 19 U.S.C. 1613 and 1618) [Sec. 8, Act of Aug. 9, 1939, Public, No. 357, 76th Cong., 1st sess.]

§ 153.10 (Article 10) *Handling of petition.* The custodian, upon receipt of a petition, shall cause such investigation to be made as the facts in the case may warrant, and thereafter shall transmit it, together with the report of any investigation made, to the Treasury Department and the Secretary of the Treasury, if he finds that the forfeiture was incurred without wilful negligence or without any intention on the part of the petitioner to defraud the revenue or to violate the law or finds the existence of such mitigating circumstances as to justify the remission or mitigation of the forfeiture, may remit or mitigate the forfeiture upon such terms and conditions as he deems reasonable and just.

If the petition involves a matter which has been referred to the Department of Justice for the institution of court proceedings, the custodian shall transmit the petition, immediately upon receipt, to the United States Attorney for the district in which the seizure occurred and notify the petitioner of such action.

(Sec. 618, 46 Stat. 757; 19 U.S.C. 1618) [Sec. 8, Act of Aug. 9, 1939, Public, No. 357, 76th Cong., 1st sess.]

§ 153.11 (Article 11) *Promulgation of regulations.* In pursuance of Section 8 of the Act of August 9, 1939, Public, No. 357, 76th Congress, 1st session, and the Order of the Secretary dated August 31, 1939 (T.D. 31), the foregoing regulations are hereby made and promulgated.

[SEAL] HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 39-3559; Filed, September 27, 1939; 11:01 a. m.]

TITLE 47—TELECOMMUNICATION FEDERAL COMMUNICATIONS COMMISSION

PART 9—RULES AND REGULATIONS GOV- ERNING AVIATION SERVICES

Correction

Attention is directed to the following error in Section 9.73 (d) Eastern continental chain and feeders (Green), available for aeronautical fixed stations, printed in the Thursday, July 20, 1939 issue of the FEDERAL REGISTER on page 3381:

The frequency "10,865" should read "10,855".

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-3569; Filed, September 27, 1939; 12:46 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

RAILWAY STATISTICS OF LESS-THAN- CARLOAD TRAFFIC

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 25th day of September 1939.

In the Matter of Railway Statistics of Less-than-carload Freight Traffic and Freight Forwarder Carload Traffic—special report for test period October 1st to 7th, 1939, both inclusive, prescribed by our order of September 12, 1939:—

It is ordered, That the instructions which were made a part of the special report form and a part of our order of September 12th, shall be and are hereby amended by the addition of a new paragraph which will be the third paragraph on page 3, to read as follows:

Show in a footnote the number of tons of freight forwarded-received from connections, included in Column 2, which were received in cars not worked at interchange points, giving the figures applicable to each line of the special report form separately.

By the Commission, division 1.

[SEAL]

W. P. BARTEL,
Secretary.

[F. R. Doc. 39-3570; Filed, September 27, 1939; 12:55 p. m.]

Notices

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF CANCELATION OF A SPECIAL CERTIFICATE FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that a Special Certificate for the employment of learners, previously issued to the Thomas P. Taylor Company, 140 James Street, Bridgeport, Connecticut, has been canceled as of the date of its issuance, July 27, 1939, pursuant to action taken under Section 14 of the Fair Labor Standards Act of 1938 and Section 522.5 (b) of Regulations Part 522, as amended, issued thereunder.

4 F.R. 3903 DI.

Reimbursement of all persons employed after the effective date, August 1, 1939, under such canceled Special Certificate must be made in an amount equal to the difference between the applicable statutory minimum wage and any lesser wage paid such persons.

This cancellation shall not become effective until after the expiration of the fifteen-day period after the date this notice appears in the *FEDERAL REGISTER* during which time petitions for review may be filed under Section 522.13 of said regulations by aggrieved persons. If a petition for review is properly filed, the effective date of this cancellation shall be postponed unless and until final action sustaining such cancellation is taken on such petition.

Signed at Washington, D. C., this 27th day of September 1939.

MERLE D. VINCENT,
Chief, Hearings and
Exemptions Section.

[F. R. Doc. 39-3567; Filed, September 27, 1939; 12:24 p. m.]

NOTICE OF HEARING ON MINIMUM WAGE
RECOMMENDATION OF THE APPAREL IN-
DUSTRY COMMITTEE

Whereas, the Administrator of the Wage and Hour Division of the United States Department of Labor, acting pursuant to Section 5 (b) of the Fair Labor Standards Act of 1938, on December 19, 1938, appointed Industry Committee No. 2¹ for the Apparel Industry, composed of an equal number of representatives of the public, employers in the industry and employees in the industry, such representatives having been appointed with due regard to the geographical regions in which the industry is carried on, and

Whereas, Industry Committee No. 2 on June 16, 1939, recommended minimum wage rates for the apparel industry and has thereafter duly adopted a report containing said recommendations and reasons therefor and has filed such report with the Administrator on September 27, 1939, pursuant to Section 8 (d) of the Act and Section 511.19² of the Regulations issued under the Act, and

Whereas, the Administrator is required by Section 8 (d) of the Act, after due notice to interested persons and giving them an opportunity to be heard, to approve and carry into effect by order the recommendations of Industry Committee No. 2 if he finds that the recommendations are made in accordance with law and are supported by the evidence adduced at the hearing before him, and, taking into consideration the same factors as the Industry Committee is required to consider by Sections 8 (b) and 8 (c) of the Act, will carry out the purposes of Section 8 of the Act; and, if he

finds otherwise, to disapprove such recommendation.

Now, therefore, notice is hereby given that:

I. The recommendation of Industry Committee No. 2 is as follows:

The Committee recommends for the manufacture of all apparel, apparel furnishings and accessories made by the cutting, sewing, or embroidery processes, (except knitted outerwear, knitted underwear, hosiery, men's fur felt, wool felt, straw and silk hats, and bodies, ladies' and children's millinery, furs, and boots and shoes) the following minimum wage rates to be applicable to the following divisions of the industry in all states of the United States, the District of Columbia and each territory and possession of the United States except Puerto Rico:

MEN'S WEAR

Men's and boys' clothing (40 cents). The manufacture of men's and boys' suits, overcoats, topcoats, tailored uniforms, and men's summer wash suits, not elsewhere specified, from any woven materials or from purchased knitted materials.

Sportswear and other odd outerwear (40 cents). The manufacture of men's, women's, and children's sportswear and other odd outerwear, including wind-breakers, lumberjackets, mackinaws and mackinaw coats, melton jackets, blanket-lined and similar coats, leatherette coats and jackets, hunting coats and vests, riding clothing, ski-suits and snow-suits (except children's ski-suits and snow-suits), and similar garments not elsewhere specified, from any woven materials or from purchased knitted materials.

Leather and sheep-lined garments (40 cents.) The manufacture of leather, leather trimmed, and sheep-lined garments for men, women or children.

Rainwear (40 cents). The manufacture of water-proofed garments and raincoats from oiled cloth or other materials, whether vulcanized, rubberized, cravenetted, or otherwise processed.

Single pants and breeches other than those of 100 percent cotton fabric (37½ cents). The manufacture of men's and boys' separate trousers or pants, breeches and knickers from any fabric except that consisting of 100 percent cotton.

Single pants of 100 percent cotton fabric, overalls, coveralls and work shirts (32½ cents). The manufacture of single pants made of 100 percent cotton fabric; overalls; overall jackets (regardless of type of fabric used in lining); men's, boys' and children's coveralls; and work shirts.

Dress shirts, collars and sleeping wear (32½ cents). The manufacture of men's and boys' dress shirts, sport shirts, flannel shirts, blouses, collars and sleeping wear from any woven fabric or from any purchased knit fabric.

Men's and boys' underwear of woven fabric (32½ cents). The manufacture of men's and boys' underwear from any woven fabric.

WOMEN'S WEAR

Cloaks, suits and separate skirts (40 cents). The manufacture of women's, misses', juniors' and children's coats, reefers, jackets, capes, wraps, riding habits, knickers, suits, tailored ensembles, skirts and jumper skirts, from any woven materials or from purchased knitted materials.

Dresses (35 cents). The manufacture of women's, misses' and juniors' dresses, frocks, gowns and dressmaker ensembles, for whatever use, from any woven materials or from purchased knitted materials.

Blouses, shirtwaists, neckwear and scarfs (35 cents). The manufacture of women's, misses' and juniors' blouses, blousesettes, waists, shirtwaists, tunic blouses, vestees, guimpes, gilets; women's, misses', juniors' and children's neckwear, toppers, scarfs, ruffings and ruchings, and similar garments from any woven material or from purchased knitted materials.

Corsets and allied garments (35 cents). The manufacture of corsets, step-in-corsets, brassieres, bandeau-brassieres, garter-belts, girdle corsets or step-in-corsets attached to brassieres or bandeau-brassieres, corselets, foundation garments, all similar body-supporting garments and corset accessories from whatever material.

Underwear, nightwear and negligees made of woven fabric (35 cents). The manufacture of women's, misses', and children's undershirts, panties, bloomers, step-ins, athletic underwear, slips, petticoats, chemises, nightgowns, pajamas, negligees, housecoats, bed jackets, waist suits, and infants' underwear, from any woven materials.

Infants' and children's outerwear (35 cents). The manufacture of infants' and children's dresses, skirt and blouse suits, rompers, creepers, sportswear and play apparel, including sun-suits, gym-suits, snow-suits, ski-suits, slacks and beachwear, infants' outerwear, brother and sister suits, baby boys' and boys' wash suits and similar infants' and children's garments not elsewhere specified, from any woven materials or from purchased knitted materials.

Robes (35 cents). The manufacture of men's, women's and children's bath, lounging and beach robes and dressing gowns, from any woven materials or purchased knitted materials.

Washable service apparel (35 cents). The manufacture of women's washable service uniforms, including waitresses', nurses', and maids' uniforms, aprons, jackets, and smocks, and similar washable service garments not elsewhere specified; and the manufacture of men's washable service uniforms (except tailored uniforms) whether as separate coats or trousers, or as combinations

¹ 3 F.R. 3066 DI.

² 4 F.R. 2103 DI.

thereof, and similar washable service garments not elsewhere specified.

ACCESSORIES AND SPECIAL PRODUCTS

Caps and cloth hats (40 cents). The manufacture of men's and boys' hats or caps (except men's and boys' fur-felt, wool-felt, straw, and silk and opera hats and bodies) from any woven material, any purchased knitted material, leather, leatherette or any combination of such materials, including, but without limitation, uniform caps, aviation caps, and shop and railroad caps; and including the manufacture of cap visors, bands and brims, and the manufacture of sweat bands from any material other than leather.

Belts (40 cents.) The manufacture of men's, boys', women's, misses' and children's separate belts from leather, imitation leather, or other material or fabric.

Embroideries (40 cents). The production for use in the apparel industry of pleating, tucking, shirring, hemstitching, handrolling, fagotting, stitching, bonnaz embroidery, crocheting, crochet beading, hand drawing, machine drawing, rhinestone trimming, eyelets (except automatic eyelets), nailheads, binding, piping, and all other embroidery and stitching, not elsewhere specified.

Hand embroidery, hand-machine embroidery and Schiffli embroidery and laces (32½ cents). The production for use in the apparel industry of hand embroidery, hand-machine embroidery and Schiffli embroidery and laces.

Covered buttons and buckles (35 cents). The manufacturing process of covering buttons and buckles with cloth, leather or similar materials.

Garters, suspenders and arm bands (35 cents). The manufacture of garters, suspenders, arm bands, and other elastic woven products (except orthopedic and athletic) from webbing, leather, or other material.

Ladies' handbags (35 cents). The manufacture of ladies', misses' and children's handbags, pocketbooks and purses from any material of any kind or nature; except metal handbags, pocketbooks, purses and mesh bags.

Artificial flowers and feathers (35 cents). The manufacture, processing and fabrication of artificial flowers, buds, foliage, fruits, plants, and feathers, or parts thereof from any material; and the preservation and processing of natural flowers and feathers.

Men's neckwear and scarfs (35 cents). The manufacture of men's and boys' neckties, scarfs and mufflers from any woven materials or from purchased knitted materials.

Gloves and mittens other than work gloves and mittens (35 cents). The manufacture of all gloves and mittens, (except athletic) other than work gloves and mittens, from leather, woven or knitted fabrics or from any combinations of these materials.

Work gloves and mittens (32½ cents). The manufacture of work gloves and

mittens from fabric, leather, or fabric and leather combined, or knitted materials.

Handkerchiefs (32½ cents). The manufacture of men's, women's and children's handkerchiefs, plain or ornamented, from any materials.

IN PUERTO RICO

All products made in Puerto Rico (30 cents). All products made in Puerto Rico included within the definition of the apparel industry.

II. The full text of the report and recommendations of Industry Committee No. 2 is available for inspection by any person between the hours of 9:00 a. m. and 4:30 p. m. at the following places:

Boston, Mass., 120 Boylston Street.
New York, N. Y., 412 Federal Building,
641 Washington St.

Philadelphia, Pennsylvania, 1630
Widener Building.

Pittsburgh, Pennsylvania, 216 Old Post
Office Bldg.

Newark, N. J., 424 Federal Bldg.

Cleveland, Ohio, 728 Standard Bldg.,
1370 Ontario Avenue.

Detroit, Michigan, 358 Federal Building.

Chicago, Illinois, 964 Merchandise
Mart.

Indianapolis, Indiana, 450 Century
Building.

Richmond, Virginia, 215 Richmond
Trust Building.

Baltimore, Maryland, 6th Floor, Snow
Building, Calvert & Lombard Streets.

Washington, D. C., 5th Floor, Depart-
ment of Labor.

Atlanta, Georgia, 314 Witt Building,
249 Peachtree Street.

Birmingham, Alabama, 818 Comer
Building.

Jacksonville, Florida, 225 Post Office
Building.

Charlotte, North Carolina, 235 Post
Office Building.

Nashville, Tennessee, 119 Seventh Ave-
nue, North.

St. Louis, Missouri, 314 Old Federal
Building, 815 Olive Street.

Kansas City, Missouri, 563 General
Post Office Building.

Minneapolis, Minnesota, 406 New
Post Office Building.

Dallas, Texas, 618-621 Wilson Build-
ing.

San Antonio, Texas, 716 Maverick
Building.

New Orleans, Louisiana, 516 Caronde-
let Building.

San Francisco, California, 785 Market
Street.

San Juan, P. R., Box 1431 Post Office.
Juneau, Alaska, B. D. Stewart, Com-
missioner of Mines.

Copies of the Committee's report and recommendations may be obtained by any person upon request addressed to the Administrator of the Wage and Hour Division, Department of Labor, Washington, D. C.

III. A public hearing on the question of whether the recommendation of Industry Committee No. 2 shall be approved or disapproved pursuant to Section 8 of the Act will be held on October 23, 1939, at the Raleigh Hotel, Pennsylvania Avenue and Twelfth Street NW., Washington, D. C. at 10:00 a. m. before the Administrator of the Wage and Hour Division or a trial examiner designated to prepare for the Administrator an intermediate report approving or disapproving said recommendation. Should the hearing be held before a trial examiner, the Administrator will publish in the FEDERAL REGISTER on or before October 18, 1939, an order designating a person to act as trial examiner and setting forth the procedure for review of the trial examiner's intermediate report.

IV. Any interested person supporting or opposing the recommendations of Industry Committee No. 2 may appear at the aforesaid hearing to offer evidence, either on his own behalf, or on behalf of any other person, provided that not later than October 18, 1939, such person shall file with the Administrator at Washington, D. C., a notice of his intent to appear which shall contain the following information:

1. The name and address of the person appearing.

2. If such person is appearing in a representative capacity, the name and address of the person or persons whom he is representing.

3. The division or divisions of the recommendation of Industry Committee No. 2 with respect to which such person proposes to appear and whether such person proposes to appear for or against such recommendation and a brief summary of what he intends to show.

4. The approximate length of time requested for his presentation.

Such notice may be mailed to the Administrator, Wage and Hour Division, Department of Labor, Washington, D. C., and shall be deemed filed upon receipt thereof.

V. The hearing will be conducted in accordance with the following rules, subject, however, to such modifications as are subsequently deemed appropriate by the presiding officer:

1. The hearing shall be stenographically reported and a transcript made which will be available to any person at prescribed rates upon request made to the official reporter.

2. The presiding officer may call for production of evidence upon any issue and may continue the hearing from time to time and to a place which shall be shown in the record of the proceedings.

3. In order to maintain orderly and expeditious procedure, the presiding officer will notify each person filing a notice of intention to appear of the day on and place at which he may offer evidence at the hearing. If such person

does not appear at the time set in the notice, he will not be permitted to offer evidence at any other time except by special permission of the presiding officer.

4. The presiding officer may permit any person appearing in accordance with paragraph IV to cross-examine any witness offered by another person insofar as is practicable and to object to the admission or exclusion of evidence by the presiding officer. Requests for permission to cross-examine a witness offered by another person and objections to the admission or exclusion of evidence shall be stated briefly with the reasons for such request or the grounds of objection relied on. The record shall not include argument thereon except as ordered by the presiding officer. The rules of evidence prevailing in courts of law or equity shall not be controlling.

5. The Industry Committee will be represented at the hearing by its counsel who will open and close the proceeding.

6. Written documents and exhibits shall be tendered in duplicate, and the person presenting the same shall be prepared to supply additional copies if such are ordered by the presiding officer.

7. All evidence must be presented under oath or affirmation. Written documents or exhibits, except as otherwise permitted by the presiding officer, must be offered in evidence by a person who is prepared to testify with respect to the authenticity and trustworthiness thereof and who shall, at the time of offering the document or exhibit, make a brief statement as to the contents and manner of preparation thereof. Where evidence is embraced in a document containing matter not intended to be put in evidence, such document will not be received, but the person offering the same may present to the presiding officer the original document together with true copies of those portions of the document intended to be put in evidence. Upon presentation of such copies in proper form, the copies will be received in evidence.

8. Subpoenas requiring the attendance of witnesses or the presentation of documents at the hearing may be issued by the Administrator of the Wage and Hour Division of the United States Department of Labor in his discretion and any person may apply in writing for the issuance by the Administrator of a subpoena. Any application for a subpoena must describe as exactly as practicable the evidence proposed to be secured by the subpoena. Witnesses summoned before the presiding officer shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear.

9. Before the close of the hearing, the presiding officer may in his discretion offer to all persons who have appeared in the proceeding an opportunity to give

oral argument in which case the presiding officer shall designate a time and place for such oral argument and shall place such restrictions with respect to time and order of appearance upon persons giving oral argument as he deems appropriate to further the orderly and expeditious conduct of the proceeding.

10. Any person who has appeared in the proceeding may file written briefs (not fewer than 12 copies) with the presiding officer within such time and subject to such limitations and restrictions as are prescribed at the hearing. Such briefs shall be available for inspection at the office of the Administrator in Washington, D. C., and copies may be obtained from the official reporter at the prescribed rates. Except upon cause shown, no reply briefs will be accepted.

11. Except as may be expressly permitted in particular instances, the presiding officer will not receive in evidence any documents, letters or other written statements submitted for consideration in connection with the proceeding after the close of testimony.

12. No order issued as a result of the hearing will take effect until after due notice is given of the issuance thereof by publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 27th day of September 1939.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 39-3568; Filed, September 27, 1939; 12:44 p. m.]

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 7-401 (E)-1]

IN THE MATTER OF THE APPLICATION OF MARQUETTE AIRLINES, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 401 (E) (1) OF THE CIVIL AERONAUTICS ACT OF 1938.

NOTICE OF POSTPONEMENT OF REARGUMENT

Reargument in the above-entitled proceeding now assigned for September 27, 1939, is hereby postponed to a date to be hereafter fixed.

Dated, Washington, D. C., September 26, 1939.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 39-3561; Filed, September 27, 1939; 11:10 a. m.]

Air Safety Board.

[Docket No. 7]

IN THE MATTER OF INVESTIGATION, UNDER SECTIONS 702 (a) (2) AND 702 (c) OF THE CIVIL AERONAUTICS ACT OF 1938, OF ACCIDENT INVOLVING AIRCRAFT OF UNITED

STATES REGISTRY NC 16993, WHICH OCCURRED NEAR RIO DE JANEIRO, BRAZIL, S. A. ON AUGUST 13, 1939

NOTICE OF HEARING

A hearing having been ordered by the Air Safety Board in the above entitled matter, subject to the assignment of the undersigned Examiner, such is hereby assigned for public hearing on October 3, 1939, at 9:30 a. m. (EST), in Room 316 of the Federal Building, Miami, Florida.

Dated, Washington, D. C., September 25, 1939.

[SEAL] FRED M. GLASS,
Examiner.

[F. R. Doc. 39-3560; Filed, September 27, 1939; 11:10 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before
Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of September, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF OPPENHEIM, COLLINS & COMPANY INC., A CORPORATION

[Docket No. 3869]

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41).

It is ordered, That John L. Hornor, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, October 3, 1939, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-3558; Filed, September 27, 1939; 9:38 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of September, A. D. 1939.

[File 2-1039]

IN THE MATTER OF CALLAHAN ZINC-LEAD COMPANY

STOP ORDER

This matter coming on to be heard before the Commission on the registration statement (File 2-1039) of Callahan Zinc-Lead Company, an Arizona

No. 187—2

corporation, after confirmed telegraphic notice to the registrant that it appears that the registration statement includes untrue statements of material facts and omits to state material facts necessary in order to make the statements made not misleading;

Evidence having been received upon the matters set forth in the statement of matters to be considered duly served by the Commission on said registrant, and the registrant having stipulated to the existence of deficiencies;

The Commission having duly considered the record, having read the briefs and heard the arguments of counsel and being fully advised in the premises, and finding that the registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and mate-

rial facts necessary in order to make the statements therein not misleading;

The Commission having determined not to consider until after the issuance of a stop order amendments to said registration statement filed by Callahan Zinc-Lead Company on March 28, 1939, and April 5, 1939; all as more fully set forth in the Commission's Findings and Opinion this day issued;

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, that the effectiveness of the registration statement (File 2-1039) filed by Callahan Zinc-Lead Company be and it is hereby suspended.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3563; Filed, September 27, 1939, 11:21 a. m.]

